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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,163	05/11/2001	May D. Eng	BEAS-01047US0	7139
23910	7590	12/22/2004	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			CHEUNG, MARY DA ZHI WANG	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/854,163	Applicant(s) ENG, MAY D. SB	
	Examiner Mary Cheung	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

1. This action is in response to the RCE filed on October 18, 2004. Claims 48-105 are pending. Claims 1-47 are canceled. Claims 48-105 are examined and the rejections are presented in this office action below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 48-53, 55-56, 58-67, 69-70, 72-81, 83-84, 86-96, 98-99 and 101-105 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyman, U. S. Patent 5,438,508.

As to claims 48, 62, 76 and 91, Wyman teaches a computer network including a multi-tier licensing system, and a multi-tier licensing system method, comprising: (Fig. 1):

- a) A user tier including user computers (column 9 lines 54-56 and Fig. 1);
- b) A remote node tier (*delegatee servers 13 of Fig. 1*) including remote nodes enabling users to run a licensed software program, at least some remote nodes allowing multiple users at multiple computers to run the licensed software program concurrently, the remote nodes producing counts or indications of the numbers of licensed software users associated with the remote nodes (column 9

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line 30 – column 10 line 1 and column 10 lines 35-41 and column 11 lines 23-54 and column 15 line 48 and column 16 line 2 and column 20 lines 28-35 and Fig. 1);

c) A master node tier (*license server 10 of Fig. 1*) including a master node receiving the counts from the remote nodes and calculating a total number of licensed software users, and the master node evaluating a license allocation condition using the total number of licensed software user (column 9 line 30 – column 10 line 1 and column 11 lines 17-35 and column 12 line 65 – column 13 line 10 and column 15 lines 1-67 and Figs. 1-3).

As to claims 49, 63, 77 and 92, Wyman teaches the remote nodes and master node run licensing software (column 9 line 30 – column 10 line 1 and Fig. 1).

As to claims 50, 64, 78 and 93, Wyman teaches the master node is selected as the master node from the nodes running the licensing software (column 9 lines 30-39).

As to claims 51, 65, 79 and 94, Wyman teaches the remote nodes server the licensed software to the users in the user tier (column 9 line 30 – column 10 line 11 and Fig. 1).

As to claims 52, 66, 80 and 95, Wyman teaches a sanity scan is done on at least one subset of the remote nodes (column 23 lines 38-50).

As to claim 53, 67, 81 and 96, a scan result message is sent to the master node with at least some of the counts is taught by Wyman as the master node (*license server 10 of Fig. 1*) authorizes the remote nodes (*delegatee server 13 of Fig. 1*) to administrate usages of licenses for user nodes (*users 16 of Fig. 1*), the remote nodes scan and

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calculate user's licenses, the remote nodes further maintain log files for each user node regarding the usages of the licenses, and the log files are also stored in the master node (column 9 line 30 – column 10 line 1 and column 10 lines 35-41 and column 11 lines 17-54 and column 12 line 65 – column 13 line 13 and column 23 line 38 – column 24 line 12 and Fig. 1).

As to claims 55, 69, 83 and 98, Wyman teaches the master node compares the total number of licensed software users to a predetermined value (column 20 lines 13-62 and column 24 line 58 – column 25 line 20).

As to claims 56, 70, 84 and 99, Wyman teaches the master node initiates a license lockout grace period if the total number of licensed software users exceeds the predetermined value (column 39 lines 15-38; *specifically, "grace period" corresponds to overdraft-limit in Wyman's teaching*).

As to claims 58, 72, 86 and 101, Wyman teaches the predetermined value is determined from a maximum number of licenses (column 20 lines 13-62 and column 24 line 58 – column 25 line 20 and Figs. 2-3).

As to claims 59-60, 73-74, 87-88 and 102-103, the counts are sent to the master node asynchronously and periodically are taught by Wyman as transmitting said counts whenever the license usage occurs (column 10 lines 35-40 and Figs. 1-3).

As to claims 61, 75, 89 and 104, Wyman teaches computer network is a distributed computer network (column 6 lines 66-68).

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As to claims 90 and 105, Wyman teaches the indications are counts of the number of licensed software users associated with the remote nodes (see claims 76 and 91 above).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 54, 68, 82 and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, U. S. Patent 5,438,508 in view of Bains et al., U. S. Patent 5,579,222.

As to claims 54, 68, 82 and 97, Wyman further teaches the master node check whether the scan result message has been received from all of the remote nodes and deallocates any licenses allocated to users of any of the nodes upon receiving termination messages, such as error status, abnormal termination, etc. (column 15 lines 38-40 and column 16 line 51 – column 17 line 2).

Wyman does not specifically teach deallocating any licenses to users of any of the nodes from which a scan result message has not been received. However, this matter is taught by Bains as checking the connection between the nodes and the license server, and no license is granted to said nodes if said nodes lost connection from the license server or if said nodes do not entitle to temporary user licenses (column 8 lines 1-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow deallocation procedure in Wyman's teaching

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to include the features of checking the message responses from all of said nodes, and deallocating any licenses to users of any of said nodes from which the scan result message has not been received because this would ensure the licenses are granted only to the recognized nodes; thus, the licenses would be better protected from unauthorized/unrecognized usages.

6. Claims 57, 71, 85 and 100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, U. S. Patent 5,438,508 in view of Rivera et al., U. S. Patent 6,056,786.

As to claims 57, 71, 85 and 100, Wyman teaches the master node compares the total number of licensed software users to a predetermined value as discussed above. Wyman does not specifically teach the master node sends a warning message if the total number of licensed software users exceeds a predetermined value. However, this matter is taught by Rivera as the server node sends a warning message if the total number of licensed software users exceeds a predetermined value (column 8 lines 39-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the master node in Wyman's teaching to send a warning message if the total number of licensed software users exceeds a predetermined value for alerting the over-usage of the licenses.

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Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (703)-305-0084. The examiner can normally be reached on Monday – Thursday from 10:00 AM to 7:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(703) 872-9306 (Official Communications; including After Final
Communications labeled "BOX AF")

(703) 746-5619 (Draft Communications)

Hand delivered responses should be brought to Crystal Plaza Two, Room 1B03.

Mary Cheung
Patent Examiner
Art Unit 3621
December 20, 2004

